Remarks

The various parts of the Office Action (and other matters, if any) are discussed below under appropriate headings.

I.   Claim Amendments

Claims 14 and 44 have been amended herein to clarify that the advertisements are based a previous shopping history of the user. Support for the amendments can be found, for example, on page 12, lines 7-9 of the application as filed. Claims 25-28 and 59-62 have been canceled. New claims 63 and 64 have been added herein. No fees are believed to be due. Support for new claims 63 and 64 can be found, for example, on page 12, lines 1-6 of the application as filed.

II.   Claim Objections

The Examiner objects to claims 29-42 and 44-62 for using the clause "operatively configured to", "operative to" or "configured to". According to the Examiner, these phrases suggest or make optional but do not require the steps to be performed or do not limit the claim to a particular structure. Applicants respectfully disagree with the Examiner for at least the following reasons.

It is respectfully submitted that the above cited phrases do not suggest or make optional, but instead positively recite features of the claimed invention. For example, the phrase "operatively configured to" clearly indicates that features following the phrase are included with and/or performed by the claimed device. There is no indication that such features are optional.

In contrast, the phrase "operatively configurable to", which was not used in the present claims, may be construed to suggest the features following the phrase are optional. Clearly, the difference between the two phrases can be seen. One requires the features following the phrase to be included with the device, while the other suggests that the features may be included with the device. Similar comparisons can be made to the other phrases (e.g., compare "operative to" and "operable to", "configured to" and "configurable to").

In view of the above, it is respectfully submitted that the phrases in question do not suggest or make optional, and instead positively recite features of the claimed invention.

Accordingly, withdrawal of the objection to claims 29-42 and 44-62 is respectfully requested.

I.   Claim Rejections - 35 USC § 102 and § 103

Claims 1-12, 14-42 and 44-62 stand rejected under 35 USC §103(a) based on U.S. Patent Publication No. 2003/0008636 to *McGregor et al.* (hereinafter *McGregor*) in view of U.S. Patent No. 4,951,308 to *Bishop et al.* (hereinafter *Bishop*) and/or U.S. Patent No. 6,114,960 to *Hymel*. Withdrawal of the rejections is respectfully requested for at least the following reasons.

A.   Claims 1-12, 15-42 and 45-62

1.   Claims 1 and 29
Claim 1 recites a method of securely allocating mobile devices, wherein a host computer accepts as an input an identification code that uniquely identifies at least one user. Based on the identification code, the host computer selectively places a mobile device among the plurality of mobile devices in an operative state, and customizes operation of the selected mobile device to preset preferences of the at least one user. Claim 29 recites a mobile device allocation system that includes a host computer and a plurality of mobile devices, wherein the host computer is operative to customize operation of the selected mobile device to preset preferences of at least one user.

For example, and as noted in the reply to the previous Office Action, a user may have a particular preference for the functions certain keys perform on the mobile device. These preferences may be different than a standard configuration and/or from the preferences of other users. The host computer, based on the identification code and/or identity of the user, can automatically configure the keys of the mobile device to satisfy the user's preferences, e.g., by retrieving information regarding the history of the user, and configuring the mobile device prior to allocation such that the keys perform the functions preferred by the user.

Initially, the Examiner traverses applicants' argument that *McGregor* does not teach the host computer customizing operation of the selected mobile device to preset preferences of the at least one user, and, in support, cites to paragraphs [0105] and [0112] of *McGregor*.[1] Paragraph [0105] of *McGregor* states that the system disclosed therein has sufficient flexibility to be configured according to the requirements of the user of the distribution system. In this context, the "user of the distribution system" is

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[1]Page 2 of Office Action.

the <u>owner or operator</u> of the distribution system and not a party who obtains or otherwise rents a mobile telephone from the distribution system. This is evident from the preceding paragraph of *McGregor* (i.e, paragraph [0104]) wherein various parameters are discussed along with how such parameters may be used by a <u>service provider</u> or a <u>service center</u>. Paragraph [0105] simply is provided to illustrate that the distribution system may be modified to meet the needs of the various service providers or service centers.

Moreover, such parameters (MIN, NAM, etc.) have no relevance to a person using the mobile phone. Users of mobile phones are concerned with proper operation of the phone (i.e., clear, uninterrupted communications), and not with how the phone can be distinguished from other phones in the wireless band. Clearly, paragraph [0105] of *McGregor* relates to an operator of the distribution system, and does not teach or suggest the host computer customizing operation of the selected mobile device to preset preferences of the at least one <u>user</u>.

Paragraph [0112] relates to billing matters, and discloses that wireless access may be limited based on various factors (e.g., a specific dollar amount, number of calls, or date). As disclosed in *McGregor*, such features are implemented in the <u>distribution system</u> and are used by the <u>service provider</u> to limit their risk of loss, for example, due to renters with poor credit. Paragraph [0112] of *McGregor*, however, makes no mention of configuring the <u>mobile phone</u> based on preferences of the <u>user</u>.

McGregor has not been found to teach or suggest that a host computer accepts as an input an identification number that uniquely identifies at least one user, and the host computer customizing operation of the selected mobile device to preset preferences of the at least one user, as recited in claim 1.

Bishop discloses a system for automated rental of mobile telephones. In doing so, *Bishop* describes how payment for such rental may be made, including credit card payment, cash payment, etc. In completing such payment transactions, *Bishop* discloses that the transaction may be verified based on a user password, such as a driver's license number or social security number.[2]

While *Bishop* does disclose the use of identifiers, *Bishop* has not been found to teach or suggest that the mobile telephones are customized to <u>preset preferences of the user based on such identifiers</u>. Instead, the identifiers are used as a means for

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[2] Column 4, lines 46-59 of *Bishop*.

verifying billing information. Use of identifiers for billing purposes does not teach or suggest that such identifiers may be used to customize operation of a mobile device to the preferences of a user of the mobile device.

Further, the Examiner also cites to column 8, lines 10-25 *Bishop* as teaching customizing operation of the selected mobile device to preset preferences of the user.[3] Applicants respectfully disagree. The cited portion of *Bishop* expressly discloses that the options are entered by the customer (i.e., the renter) at the time of rental. Thus, the alleged settings are not <u>preset</u>.

Moreover, the alleged "settings" do not customize operation of the phone. More specifically, the alleged settings, which include an automatic reminder call to recharge the phone (similar to a wake up call) and call forwarding, are not implemented in or by the phone, but by the distribution system.

Accordingly, *Bishop* has not been found to make up for the deficiencies of *McGregor* and, therefore, the rejection of claim 1 must be withdrawn. Similar comments apply to claim 29.

Claims 2-12, 14-24, 30-42, and 44-58 depend from either claim 1 or claim 29 and, therefore, can be distinguished from *McGregor* and *Bishop* for at least the same reasons.

2.   *Claims 14 and 44*
Claims 14 and 44 have been amended to clarify that the advertisements are based on past <u>shopping</u> history of the user. *Hymel* discloses that sources of advertisements may be selected by the user. Such <u>user selected</u> advertisements, however, are not based on a previous shopping history of the user, as recited in claims 14 and 44.

3.   *Claims 15 and 45*
Claims 15 and 45 recite that an alarm is emitted ***when the user selects*** <u>an inoperative mobile device</u>. For example, if two mobile devices are physically available for selection, and the host computer selects mobile device 1 (e.g., the host computer places mobile device 1 in the operative state and leaves mobile device 2 in the inoperative state), but the user picks up mobile device 2 (which is still in the inoperative state), mobile device 2 will emit an alarm to indicate it should not have been selected.

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[3] Page 8 of the Office Action.

The Examiner cites to paragraph [0065] of *McGregor* as teaching the features of claims 15 and 45.[4] As noted in the reply to the previous Office Action, the cited portion discloses that a failure flag is set and a message generated <u>when a mobile telephone is defective</u>, and **not** when a <u>user selects an inoperative device</u> as recited in claims 15 and 45.

For example, in the system of *McGregor*, the phone may be interrogated by the tracking and accounting unit (TAU) to retrieve data from the phone (typically after a rental return). If a data error is encountered during interrogation, a failure flag may be set for that particular phone. This error then can be used by the <u>operator</u> of the distribution system as an indicator that the phone should be removed from service. *McGregor*, however, makes not mention of emitting an alarm ***when a user selects*** an inoperative phone. This is clearly supported by the fact that *McGregor* expressly discloses that the phones are "off" prior to rental (see paragraph [0082] of *McGregor*). If the phones are "off", they cannot emit an alarm.

Accordingly, withdrawal of the rejection of claims 1-12, 14-24, 29-42, and 44-58 is respectfully requested.

B. New Claims

New claims 63-64 are submitted for favorable examination.

II. Conclusion

In view of the foregoing, request is made for timely issuance of a notice of allowance.

Respectfully submitted,

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[4] Page 4 of the Office Action.

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